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12/26/1997

ALBERT BAUER

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2665

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WILLIAM J. SAPONE
COLEMAN SUDOL SAPONE P.C.
714 COLORADO AVENUE
BRIDGE PORT, CT 06605

EXAMINER

FORD, JOHN K

ART UNIT

PAPER NUMBER

3744

MAIL DATE

DELIVERY MODE

03/12/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

Art Unit: 3744


The examiner's miscellaneous letter mailed to appellant 01/09/2007 was not styled as a Supplemental Examiner's Answer because it was not intended to be one. 37 CFR 41.50 (a)(1) states that the Board may remand an application to the examiner, as was done here. 37 CFR 41.50 (a)(2) states that if a supplemental examiner's answer is prepared in response to the Board's remand, then appellant gets certain rights that he is presently attempting to exercise.

No supplemental examiner's answer was prepared **because the Board never asked for one** in the "REMAND TO THE EXAMINER" mailed to appellant 10/31/2006. The examiner simply responded to the best of his abilities to the **specific questions** set forth by the Board and the reason that those specific questions had to be asked by the Board was because Appellant did not address those questions at the appropriate time when he was put on notice of them (i.e. when the Notice of a Non-Compliant Brief was mailed 11/26/2003).

The examiner reiterates that Appellant's failure to properly present his case at the appropriate time (namely before the Examiner's Answer was written) should not be rewarded with yet a third opportunity, subsequent to the filing of filing his original Brief, to change his position on the record (as is clearly being done in the so called "Reply Brief" of 02/16/2007 compared to his position in the "Response to Order Under 37 CFR 41.50(d)", his position in "Petition Under 37 CFR 1.181(a)(1) and finally yet another position in the originally filed "Appeal Brief") or for an opportunity to further supplement his response at an oral hearing. The "Reply Brief" and "Request for an Oral Hearing" of

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02/16/2007 are both improper because they are not in response to a Supplemental Examiner's Answer.



John E. Ford
Primary Examiner